IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5905 OF 2005

Sambhaji Bhimrao Vadar ...Applicant
vs.
State of Maharashtra & Anr. ...Respondents

Mr.S.D.Dharmadhikari for the Applicant
Ms M.H.Mhatre,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : OCTOBER 26,2005

P.C.:

1. Heard Advocate for the Applicant and learned A.P.P. for Respondent No.1. Office noting shows that the Respondent No.2 is served with the notice.

2. The Applicant is an accused in a private complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the said Act of 1881). The learned Magistrate convicted the Applicant. Apart from substantive sentence, he directed the Applicant to pay compensation of Rs.2,00,000/-. An Appeal was preferred by the Applicant before the Sessions Court for challenging the order of conviction and sentence. On the application made by the Applicant under Section 389 of the Code of Criminal Procedure, 1973, by order dated 30th August 2005, the learned Sessions Judge stayed the operation of the substantive sentence subject to the Applicant depositing the entire amount of compensation. He directed the Applicant to furnish P.R.Bond in the sum of

Rs.15,000/- with one surety in the like amount.

3. In terms of order dated 19th September 2005, the Applicant has deposited a sum of Rs.25,000/- in the Trial Court.

4. The learned Advocate for the Applicant states that the Applicant is not keeping good health. However, on instructions received from the brother of the Applicant who is present in the Court, he states that time of more than three to four months may be granted to deposit the balance amount of compensation. He submitted that the age of the Applicant is 63 years and he is not keeping good health and therefore reasonable time may be granted.

5. Considering the facts and circumstances of the case, time deserves to be granted to the Applicant to deposit the balance amount of compensation of Rs.1,76,300/- up to 30th January 2006.

6. Hence I pass the following order :

i) Order dated 30th August 2005 passed by the learned Additional Sessions Judge, Gadhinglaj in Regular Criminal Appeal No.13 of 2005 is confirmed with modification that time is granted to the Applicant to deposit the balance compensation amount in the Trial Court up to 30th January

2006. The Applicant has already availed of order of bail passed by this Court on 19th September 2005. If the Applicant fails to deposit entire balance amount of compensation on or before 30th January 2006, the Applicant shall surrender to bail.

ii) It is made clear that grant of time to deposit the balance compensation amount will not prevent the Appellate Court from hearing the Appeal even before the expiry of period provided the Appeal is ready for final hearing.

iii) All contentions of the parties on merits are kept open.

. Parties to act upon an authenticated copy of this order.

JUDGE